

### Remarks

Claims 1-10, 12, 14 and 15 are pending.

The Examiner rejects claims 1-10 and 12 under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,597,854 ("Birbaum et al."). Applicants respectfully traverse this rejection.

The Examiner states that Birbaum et al. discloses a silver halide photographic material containing benzofuranones. This statement assumes that the triazine UV-absorbers disclosed by Birbaum et al. can also contain stabilizers of classes 1-14, which includes benzofuranones. Stabilizers of classes 1-14 are taught as optionally added to the Birbaum compositions since they are active in polymer materials. With the exception of the hydroquinones (class 1.3), **none of the compounds of classes 1-14 had been shown to function as an oxidized developer scavenger. This problem was not addressed in the Birbaum patent.**

To define the benzofuranones as stabilizers (class 14) Birbaum et al. refers to a number of patents, such as, for example:

**U.S. Pat. Nos. 4,325,863 and 4,338,244** both entitled "Benzofuranone or indolinone compounds useful as stabilizers for organic materials"; **U.S. Pat. No. 5,175,312** entitled 3-phenylbenzofuran-2-ones and describing organic material stabilized by means of 3-phenylbenzofuran-2-ones against thermal, oxidative and actinic degradation and to the use of 3-phenylbenzofuran-2-ones for stabilizing organic materials; **U.S. Pat. No. 5,216,052** entitled "Bisbenzofuran-2-one" and describing the use of Bisbenzofuran-2-one for stabilizing organic materials and to the stabilized organic material thereby obtained; **U.S. Pat. No. 5,252,643** entitled "Thiomethylated benzofuran-2-ones" describing compounds which are benzofuran-2-ones having two organothiomethyl substituents directly attached to the benzo ring are suitable for stabilizing organic materials against thermal, oxidative or light-induced degradation.

The above-mentioned patents clearly show that benzofuranone compounds have been added to the triazine UV-absorbers to further stabilize organic material. None of the patents give any hint that benzofuranone compounds can function as developed oxidizer scavengers.

Moreover, the Examiner is respectfully directed to the fact that the teaching of Birbaum et al. as to the optional stabilizers of classes 1-14 is very broad (columns 23-29). Some of the classes in turn are divided in distinct subclasses of a considerable number, e.g. classes 1 and 2. The extensive list of optional stabilizers is followed by patentee's statement that the Birbaum compositions preferably comprise additional light stabilizers, such as given in subclasses 2.1, 2.6 and 2.8, e.g. sterically hindered amines (Column 29, line 56 to column 30, line 11), in particular, if component A is a binder for coatings (column 30, lines 17-19). Furthermore, it is to be mentioned that the only application example given in Birbaum et al. (columns 58-59) refers to the stabilization of such a coating which contains a sterically hindered amine. The indicated teaching neither directs someone of ordinary skill to add benzofuranones of class 14 as the optional component, nor does it advise the optional component to be added to photographic material.

The first part (columns 1-34) of Birbaum et al. deals with the use of triazine UV-absorbers for stabilizing organic material. In the middle of column 34 (starting with line 25) it is said that the triazines can also be used in photographic material. Furthermore, it is said that the triazine UV-absorbers can be combined with further UV-absorbers when used in photographic material. As further UV-absorbers, among others, compounds belonging to class 2 of the extensive list of optional stabilizers are mentioned (hydroxyphenylbenzotriazoles corresponding to subclass 2.1, benzophenones corresponding to subclass 2.2, oxanilides corresponding to subclass 2.7, cyanoacrylates corresponding to subclass 2.4, salicylates corresponding to subclass 2.3, acrylonitriles and thiazolines). There is absolutely no reference to the addition of stabilizers of class 14. In other words, the part of Birbaum dealing with photographic material does not list benzofuranones of class 14 as an optional component. **In fact some of the compounds of classes 1-14 will have a negative effect on the stability of the dyes.** Especially negative effects would result from the use of the compounds listed in class 1.19 aminic antioxidants including phenolic compounds, which would behave as cyan couplers if incorporated into photographic material. See column 40 formula (E) and column 41 formula (E-7) and (E-8).

Claim 1 defines a process for preventing the migration of the oxidised developer in a color photographic material from the light sensitive silver halide emulsion layer in which it has been formed into another silver halide emulsion layer containing color couplers comprising the steps of **incorporating** a benzofuranone compound of the formula (I) into interlayer between the light sensitive silver halide emulsion layers and **scavenging** the oxidized form of a developer when migrating from the light sensitive silver halide emulsion layer in which it has been formed to the interlayer. The teachings in Birbaum et al. do not disclose or suggest practicing a process as claimed herein. Birbaum does not anticipate or render the claimed process unpatentable. The Examiners reasoning for rejection appears to be based on a hindsight interpretation of the prior art. There is no indication given in the prior art which would motivate someone of ordinary skill to use benzofuranones of class 14 in photographic materials for the claimed process.

The Examiner rejects claims 14 and 15 under 35 U.S.C. 103 as being unpatentable over Birbaum et al. in view of U.S. Pat. No. 4,325,863 ("Hinsken et al."). Applicants respectfully traverse this rejection.

The Examiner noted that the rejection was premised on the compounds of formula VI. Compounds of formula VI are removed in the Amendment filed Nov. 13, 2002.

Applicants respectfully request the Examiner to reconsider and to withdraw the present rejections.

Applicants submit that the instant application is now in condition for allowance. In the event that minor amendments will further prosecution, Applicants request that the Examiner contact the undersigned representative.

Respectfully submitted,



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